

child has been initially placed and his/her individualized education program has been reviewed following the requirements of this part. Notice of the conduct of the re-evaluation must be provided to the parent prior to re-evaluation. A written summary of the re-evaluation must be provided to the parents within five (5) days of the scheduled review meeting. A child *must* be re-evaluated at least every three (3) years.

§ 45.40 Extended school year services.

(a) The IEP may provide for continuous instruction (uninterrupted by the regular summer recess) whenever:

(1) Continuous instruction is likely to be necessary in order to sustain, with only minor regression, current important educational skills and information retention; or

(2) The child lives in a residential facility or institution.

(b) The extension of an IEP for a ten (10) to twelve (12) month instructional program shall not result in a more restrictive change in placement on the continuum of alternative placements nor shall it constitute a basis for any deviation from any other educational placement requirement of § 45.34 of this part. However, the increased isolation of handicapped children which could result from the operation of an instructional program for handicapped children during a period of time when non-handicapped children are not attending school would not violate any requirements of this part.

§ 45.41 Outcome goals.

IEP's for children over the age of fifteen (15) years may contain, as appropriate, either a description of regular and/or special education instructional services leading to the attainment of a regular high school diploma before the age of twenty-two or a program of regular or special vocational education leading to participation in a work-experience (or sheltered employment) program and the attainment of an appropriate level of vocational proficiency to permit, whenever possible, the child's entry into competitive employment upon or before reaching the age of twenty-two.

§ 45.42 Related services.

The school must ensure that each handicapped child has developmental, corrective and other supportive services (to the maximum extent feasible) to benefit from special education.

§ 45.43 Non-academic and extra-curricular services.

(a) Non-academic and extracurricular services and activities must be offered in a way which allows equal opportunity for handicapped children to participate in services and activities.

(b) Non-academic and extracurricular services, meals and recess periods must be provided in the most integrated setting appropriate to the needs of the child.

§ 45.44 Physical education and athletics.

(a) Handicapped children must be provided an equal opportunity for participation in physical education courses and inter-scholastic, club or intramural athletics sponsored by the school.

(b) Physical education services must be provided to handicapped children in the regular physical education program and may not be different from those provided other children, unless:

(1) The child is enrolled full time in a separate facility or needs specially designed physical education; and

(2) A separate physical education setting is the least restrictive environment.

§ 45.45 Expulsion/suspension.

A handicapped child may not be expelled or suspended from school if the behavior for which action is being taken is related to the child's disability. If the child's behavior is so disruptive that the education of others is impaired, a review of the child's IEP and placement as described in § 45.38 of this part must be undertaken in order to meet the needs of the child.

§ 45.46 Geographic accessibility.

Consistent with the requirements of the IEP, the educational placement of a child must be as close to the child's home as possible. The placement of a handicapped child in an off-reservation

boarding school operated by the Bureau *shall not* be regarded as inconsistent with this requirement to the extent that similarly situated non-handicapped students are also placed in such a school.

§ 45.47 Architectural barriers and program accessibility.

(a) Facilities used by schools, directly, or through contractual arrangement, must be accessible to and usable by handicapped children. The accessibility standards of the American National Standards Institute (ANSI A117.1-1961 (R 1971)) shall be followed. Schools located in isolated locations may make application to the Director for an annual waiver of any standard. Such a request must be based on documented inability to meet the standards. In no event may architectural barriers prevent a handicapped child from being educated in the least restrictive educational environment as defined in § 45.34.

(b) Program accessibility (*i.e.*, where each program or activity, when viewed in its entirety, is readily accessible to handicapped children) must be ensured in all existing facilities.

(c) Program accessibility may be accomplished through the following methods:

- (1) Redesign of equipment;
 - (2) Reassignment of classes or other services to accessible building;
 - (3) Assignment of aides to children;
 - (4) Home visits;
 - (5) Alteration of existing facilities; or
 - (6) Other methods.
- (d) The method for accomplishing program accessibility which offers programs and activities to children in the least restrictive environment.

§ 45.48 Handicapped children in private schools placed or referred by agencies.

Requirements of this section apply to handicapped children who are or have been placed in or referred to a private school or facility by an Agency as a means of providing special education and related services.

(a) Each Agency shall insure that a handicapped child who is placed in or referred to a private school or facility is:

(1) Provided special education and related services in conformance with an IEP which meets the requirements under §§ 45.30–45.38 at no cost to the parents; and

(2) At a school or facility which meets the standards that apply to the Agencies (including the requirements in this part).

(b) In implementing the requirements of this part the Agency shall:

(1) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(2) Disseminate copies of applicable standards to each private school and facility to which an Agency has referred or placed a handicapped child;

(3) Provide an opportunity for those private schools and facilities to participate in the development and revision of BIA standards which apply to them; and

(c) Assure that handicapped children have all of the rights of a non-handicapped child.

§ 45.49 Handicapped children in private schools placed by parents.

(a) If a handicapped child has available a free appropriate public education and the parents choose to place the child in a private school or facility, the Agency is not required by this part to pay for the child's education at the private school or facility.

(b) Disagreements between a parent and a public agency regarding the availability of a program appropriate for the child, and the question of financial responsibility, are subject to the due process procedures under §§ 45.57 through 45.63.

Subpart D—Procedural Safeguards

§ 45.51 Notice to parents.

(a) Written notice must be given to the parents of a handicapped child a reasonable time before the school:

(1) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of a free appropriate public education to the child, or

(2) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the